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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,214	04/16/2004	Michael Shantz	50040-048	7264
7590 06/13/2006 MCDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			EXAMINER RICCI, JOHN A	
			ART UNIT 3711	PAPER NUMBER

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/825,214

Applicant(s)

SHANTZ

Examiner

John Ricci

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-14 and 16-24 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 & 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mabuchi et al 3,985,322 (newly cited), in view of Reynolds et al 6,550,715.

Mabuchi shows an airplane toy including a longitudinal frame 3 having a forward wing, and rearward stabilizer (figure 1), and a propeller and motor. However, there is no propeller protector, so the propeller may be damaged if it hits an object. One would recognize that a propeller protector would be desirable. For example, Reynolds shows that a flying toy may include a propeller, and protector 34 extending around and beyond the propeller and connected by struts 32 to the frame. This protector would be desirable with the toy of Mabuchi to protect the propeller. It would have been obvious to one of ordinary skill in the art to

Application/Control Number:
10/825,214
Art Unit: 3711

Page 3

provide the toy of Mabuchi with the propeller protector
shown by Reynolds.

* * * * *

Claims 6-14 & 16-24 are allowed.

* * * * *

Applicant's amendment necessitated the new ground(s) of
rejection presented in this Office action. Accordingly,

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as
set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final
action is set to expire THREE MONTHS from the mailing date
of this action. In the event a first reply is filed within
TWO MONTHS of the mailing date of this final action and the
advisory action is not mailed until after the end of the
THREE-MONTH shortened statutory period, then the shortened
statutory period will expire on the date the advisory
action is mailed, and any extension fee pursuant to 37
CFR 1.136(a) will be calculated from the mailing date of

Application/Control Number:
10/825,214
Art Unit: 3711

Page 4

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

* * * * *

This letter was prepared by Examiner John Ricci, who can be reached at:

Voice: 571-272-4429


Fax: Use 571-273-8300 for papers to be delivered directly to the mail room, like formal amendments and responses, change of address, power of attorney, petitions.

Use 703-783-0439 for papers to be delivered directly to the Examiner, like informal or proposed responses for discussion, or notes in preparation for an interview.

Response by Fax is encouraged to reduce mail processing time. Please don't send duplicate papers by mail and Fax.

PTO main switchboard: 800-786-9199.

Visit our Web site at www.uspto.gov.


JOHN RICCI
PRIMARY EXAMINER
ART UNIT 3711